MINUTES OF DISSENT

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Minute of Dissent by Mr. Shah Alimuddin Ahmad, M.A., B.L., Syed Hasan Mujtaba, M.A., LL.B., and Maulvi Hamidullah Khan.

We sign this Report subject to the following note of dissent:—

1. In Jaipur a legislature composed of two houses of a bicameral character would be more expedient.

2. We are of opinion that the safeguard necessary for the Muslims is to grant them the right of separate electorates, with a weightage extending upto 25% of the total seats, both in the Council and in the Assembly.

Having regard to the consensus of Muslim opinion as evidenced by the overwhelming support to the manifesto issued by the Muslim Political Organization, we are of opinion that nothing short of the above mentioned provision would satisfy the Muslims.

We, therefore, respectfully urge that this unanimous demand of the Muslims whose services and sacrifices have always been requisitioned and utilized for the honour and welfare of the State, should be granted in toto.

3. We do not agree with the remark of the Chairman that there is no necessity for introducing a special provision of this kind relating to one particular community in the State, regarding

matters affecting Muslim religion etc., in the legislature. When matters affecting religion are not excluded from the purview of the legislature, safeguards as proposed and passed by Committee are very necessary.

4. We are of opinion that at least one of the Ministers, appointed from among the elected members, should be a Muslim. Upto the present, there has been an unwritten convention to have at least one Muslim Minister in the Council. We, therefore, propose that it should be provided by statute that one at least of the Ministers should be a Muslim.

5. We do not agree with the Chairman's opinion that clause (4) of the suggested declaration may be omitted, as we consider that such protection is essential.

SHAH ALIMUDDIN AHMAD.
SYED HASAN MUJTABA.
HAMIDULLAH KHAN.

Minute of Dissent by Mr. Karpoor Chandra Patni and Mr. Tikaram Paliwal, B.A., LL. B.

The popular demand for the establishment of full responsible government under the aegis of His Highness the Maharaja, as indicated in the answers to the Constitutional Reforms Committee's questionnaire, submitted on behalf of the Jaipur Rajya Prajamandal, was supported by no less than 3113 persons, out of a total of 3273, who replied to the questionnaire. But we are sorry to say, that the constitutional reforms proposed in the Report do not anywhere approach the fulfilment of the said popular demand. For instance, we think that the proposals regarding franchise, composition and powers of the Legislative Council, the extent to which popular element is to be introduced into the Executive and fundamental rights, are utterly inadequate and unsatisfactory. Moreover, it is obvious that the too many safeguards and restrictions proposed throughout the Report are sure to hamper real progress. Nevertheless we have associated ourselves with the Report in the same spirit of helpfulness in which we originally decided to co-operate with government in the work of constitution-making.

We stand for a constitution framed on fully democratic lines and we believe that too much emphasis laid in the Report on the conciliation of apparently varying interests goes against the spirit of democracy. We feel that claims which cannot but be regarded preposterous should not have been put forward on behalf of the 'sardars' (by the way a word used in the Report as a misnomer for jagir-

dars and other State-grantees in general). We must make it clear that we are not at all agreeable to the idea of giving separate representation to the 'sardars'—for the simple reason that the same cannot be beneficial to them. Apart from this, we cannot help saying that special representation to the extent of 10 seats for about 700 jagirdars and other state-grantees in the Legislative Council, providing only 30 territorial seats for 30 lakhs of people, would, on the very face, look absurd. Similarly, the allotment to the 'sardars' of 25 seats in the Representative Assembly would tend to defeat the very purpose for which the Assembly is going to be created, *viz.*, to provide "effective representation in a chamber, predominantly their own, of tenants, the smaller tradesmen, the primitive tribes and such other sections of the population" who "cannot ordinarily hope to get a place in a chamber elected on a high franchise."

Likewise, it is our painful duty to submit that the demands made by the Muslims are entirely one-sided and unfair. Since Muslim representation far beyond the proportion of their population has already been reserved with liberty to contest other territorial seats, we fail to understand the significance of the suggestion about a 'reasonable compromise' made in the penultimate sentence of paragraph 31. Certainly we do not think there is any room at all for any further compromise. We are sorry that we do not share the opinion (expressed in the same paragraph) that "the bulk of the Muslim opinion in Jaipur is in favour of separate electorates". Those who press for separate electorates we would ask to

see whether they are thereby serving the best interests of the Muslim community itself. For ourselves, we regard separate electorates in any form as a deadly poison for the body politic, and as such we place on record our emphatic and uncompromising opposition to them.

Having thus stated our views about some of the fundamentals, we do not feel encouraged to go into further details. However, with the object of making the proposals contained in the Report less *objectionable, at least from the moderate point of view*, we would like to conclude this brief note with the following suggestions:—

1. The President of the Legislative Council should be an elected non-official from the very beginning;

2. The previous consent of the Prime Minister for the introduction of a Bill into the Legislative Council should not be necessary;

3. There should be no restriction on the number of resolutions to be moved or questions to be asked by the members in the Legislative Council;

4. The Prime Minister should not have the power to disallow an adjournment motion after the receipt of the consent of the President of the Legislative Council;

5. Neither of the two sessions of the Legislative Council should be of less than a fortnight's duration;

6. The quorum for the Legislative Council should be fixed at 25;

7. His Highness' privy purse should be fixed;

8. The State Army should not be excluded from the purview of the Legislative Council, nor should the expenditure under the heads (1) 'army', (2) compensation for excise to jagirdars, for bhomchauthan to thikana Diggi, for excise to the Bhomias of Torawati, for customs to thikanas of Sheikhawati, and (3) the salaries of the Prime Minister and other Ministers, be regarded as expenditure under excluded heads.

9. Clause (*g*) under para 67 about the relations of the sardars with His Highness and their privileges etc. should be deleted.

10. The provision suggested in the last sentence of para 42, regarding the power of additions, alterations and amendments in a bill after it has been passed by the Legislative Council should be removed.

KARPOOR CHANDRA PATNI.
TIKARAM PALIWAL.

Minute of Dissent by Mr. Chiranji Lal, M.A., LL.B., and Mr. Vidyadhar Kulhari, B.A., LL.B.

While we generally agree with the main recommendations of the Constitutional Reforms Committee, we feel that we are failing in our duty if we do not put our view-point on various subjects before the Government. The foremost question is of the goal of constitutional progress. We may frankly submit that in the modern age when the problems of government have grown and are still daily growing more complicated, when the strength of a government lies upon its popular backing and not upon its armies, and when constant touch and consultation with the people is necessary for a government to function properly, there can be no two opinions about Responsible Government. A government of the people is the universal cry. Out of about 3000 replies received by the Committee to its questionnaire, 98 per cent demand full Responsible Government immediately. The demand is backed by merchant magnates, medical practitioners, advocates, and professors, leaving aside the general masses who are crazing for it. There is no dearth of talent in Jaipur State and good many citizens of the State have graced the legislatures and ministries in British India. We feel that the Committee would have been absolutely justified had it recommended the establishment of full Responsible Government in the State. But as uptill now there were no representative institutions in the Jaipur State and as the sardars are unduly nervous about the democratic institutions and want to stick to feudal traditions and their so-called privileges and rights, the

Committee has made very modest recommendations. The Committee was actuated by a spirit of realism and is not likely to proceed too fast. We being certain that there was no chance of taking the entire Committee or at least the majority with us on the point of immediate grant of Responsible Government by His Highness the Maharaja Sahib Bahadur, we remained neutral on the proposal. But it does not follow that if full fledged responsible government can not be established in the State at present, there is any thing wrong in the declaration of the goal of constitutional progress. We, therefore, request the Government to make a declaration that it is the policy of His Highness' Government to increase association of the people with the administration of the State with a view to establish full Responsible Government under the aegis of His Highness the Maharaja Sahib Bahadur.

We may further submit that a time-limit should also be fixed in which the necessary changes should be brought and full responsibility conferred upon the representatives of the people. The case of Phillipines is an important instance. Such fixing of time-limit would electrify the masses and would inspire them with more energy, more enthusiasm, and more ambition. The various sections of the public would try to adjust themselves to the coming reforms and the evolution will be peaceful, orderly and methodical.

We may here say that immediately two or three public men may be co-opted in the administration to strengthen it and to give an opportunity to them to learn the art of government. The war has

created many complicated problems, and not only it affords an opportunity for rapid industrialisation of the country—hampered though we are, on account of lack of proper machinery, but it has brought great many miseries in the shape of high prices, increasing cost of living, and disruption of normal trade and commerce. We require an efficient system of planned economy and we think that such expansion of the cabinet would prove a source of strength to the administration.

At present only officials and Ministers are deputed to represent Jaipur State in so many all India committees and conferences and it is in fitness of things that some public men should also be deputed.

Though our terms of reference are limited to constitutional reforms, yet life cannot be separated in water-tight compartments. We expect that the administration would try to eradicate illiteracy, poverty and general backwardness. Literacy campaigns may be started in co-operation with municipal committees and public organisations like the Prajamandal, Anjman Islamlia, Hindu Sabha, Sardar Sabha etc. We may cite the example of Aundh State. The entire illiteracy of the State was wiped out in a period of three months before the new reformed constitution came into operation.

In conclusion we express our fervent hope that the rich and poor, sardars and commoners, officials and non-officials, merchants, artisans and the agriculturists, would all join together in making the greatness of Jaipur.

C. L. Agarwal,
Vidyadhar Kulhari.

Minute of Dissent by Mr. Nemi Chand Kasliwal, M. A., LL. B.

I have generally agreed to the recommendations of the Committee as contained in its Report. I only append a note herewith on some of those points with which I find myself in disagreement.

Declaration re: Responsible Government:

Although the Committee's Report has provided for a review of the constitution after five years, it has not said anything about the goal. The Government order appointing the Committee acknowledges a rapid growth in the political consciousness of the people and their interest in public affairs. But it no where says that the goal of this steady and harmonious constitutional progress of the State is Responsible Government. I would suggest that the proclamation of His Highness the Maharaja should contain a declaration that it is the settled policy of His Highness' Government that there will be greater association of His subjects in the work of government with a view to the progressive realization of Responsible Government in the State.

The constitution will be reviewed by a Committee and it will be incumbent on that Committee to report as to what extent the principle of Responsible Government could be established.

It may be said that my stand for a declaration is not consistent with what took place in the Committee on Mr. Paliwal's resolution on Responsible Government on which I remained neutral. From its very inception, members had been aware of the

immense difficulties facing the Committee in its labours and it was felt that demands not compatible with the existing circumstanc [illegible] of retarding the work of the [illegible] of aiding it. It was, therefo [illegible] things, that some of the members including the representatives of the Praja Mandal decided to adopt a spirit [illegible] with the prevailing atmosph [illegible] state that I equally stand for the attainment of Responsible Government under the aegis of His Highness the Maharaja, but taking a realistic view. I feel that Responsible Government at one stroke is not feasible.

Muslim Representation:

In agreeing to give seats for the Muslims in the Legislative Council, I feel that it is adequate enough to give them sufficient weightage and a voice in the deliberations of the House. I would, however, say that a weightage, more than what we have suggested in the Report, would smack of over-representation of the Muslims. As Dr. Beni Prasad in his book, "Hindu-Muslim Unity" says, "A weightage, in order to be reasonable must not be so large as to jar on the sense of justice and fairness and require the exertion of force rather than an appeal to the twin principles of justice and political expediency for its maintenance". A weightage which gives almost double the number of seats to the Muslim community which it would otherwise be entitled to, on population basis, is, in my opinion, reasonable.

Representation of Sardars:

Ten seats have been reserved for the sardars in the Legislative Council. They have been given ten

times the weightage their confreres in British India have received. It is, therefore, correct to say that the sardars would be extremely over-represented in the Legislative Council as well as in the Representative Assembly which neither their history nor their status would justify. The Government have made it clear after an exhaustive enquiry that they are creations of the Rulers of Jaipur and as such they are in on better position than the ordinary subjects of His Highness. I have agreed to this disproportionate reservation for the sardars purely on grounds of political expediency.

State Army:

I am opposed to the exclusion of the State Army from the purview of the Legislative Council. Nearly 1/5th of the State Budget concerns the State Army. And if discussion on the Army is excluded, this item of the Budget is also excluded. Besides, it is a dangerous policy to increase expenditure on the army without previously consulting the popular element, as increase in that side would result in starvation of the nation-building departments. The regulation of the personnel of the army may rest with His Highness. But the Budget item on it must remain a matter for discussion and vote in the Legislative Council.

Cut motion in the salary of Ministers:

A cut motion to critise the policy of a Minister regarding the working of a particular department under his charge is a valuable right of the members of the Legislative Council. It is used primarily to focus attention on some particular feature of the policy of the Minister in the administration of the department about which the motion is tabled; which

a cut motion under the head of general administration may quite fail to do. My attention has been drawn to the provisions of the Government of India Act 1935, by which salaries of Ministers are no longer amenable to a vote of the House. But this has no application here as there is no joint responsibility here, nor is there a provision for a vote of no-confidence being passed against the Ministers. A cut motion in the salary of a particular Minister in the British Indian provinces would be tantamount to a motion of no-confidence against the whole Ministry which, if passed, would compel the Ministry to resign because there is joint responsibility. I do not think there is any danger of this right being misused, as the Chairman seems to think. It should remain with the legislators as a cherished right of theirs.

12-4-43. N. C. KASLIWAL.

Minute of Dissent by Raja Sardar Singhji Bahadur of Khetri.

While I am in general agreement with the recommendations of the Committee on Constitutional Reform, there are certain points on which I differ from the view of the majority. The present note embodies these points of difference and my views and suggestions regarding them.

Paragraph 29 of the Committee's Report deals with the allotment of seats in the Legislative Council. The Committee recommends that in a House consisting of fifty-nine members (excluding the Chairman) the seats should be allotted as follows:—

Nominated	14
Territorial constituencies (including 5 Muslim seats)	30
Sardars	10
Trade and Commerce	2
Women	1
Labour	1
Graduates	1
	59

I would suggest that this arrangement leaves out of account a number of factors. In the first place, the sardars are given only 10 seats or just over 22% of the elected seats. In view of the part which the thikanedars have played in the history of Jaipur and in view of the fact that the thikanas consist of about two-thirds of the entire state, both in area and in population, they should be given a representation of at least 33%, namely, 15 seats, in

the Legislative Council. The Committee admits the importance of the sardars as a class in the State, but unless they are given a substantial representation in the Council, there will be an inadequate recognition of this order.

In the second place, I would suggest that there should be no functional seats in the Council. To the best of my knowledge, no Constitution in the world has recognised that graduates represent any special interest and are entitled to seats on that score. In all democratic bodies representation is given to particular interests only when they are of an economic or political character different to that of the majority. But graduates cannot claim special consideration on that score, for a graduate may be a thikahedar or a peasant, a Hindu or Muslim, an industrial magnate or an office clerk.

With regard to the other functional seats, I would say that the interests which it is proposed that they should represent are not sufficiently developed in Jaipur at this stage to require special representation in the Council. Neither Trade and Commerce nor Labour is sufficiently developed or organised to have interests which come into clash with the rest of the body politic. These interests could, therefore, be adequately represented through the general territorial constituencies for the time being. Similarly, I see no reason why women should be given a special seat. The day is not far off, I hope, when women will contest the territorial constituencies on an equal footing with men. To give them a special seat now will retard the process of their progress, for it will always make them feel that they are weak and entitled to special

consideration on the basis of their weakness and backwardness.

Should these five functional seats be done away with, they could be added on to the ten allotted to the sardars. Thus the sardars could be given their 15 seats without decreasing the 30 seats allotted for popular representation.

With regard to representation in the Assembly, I would suggest that here again the sardars have not been given an adequate number of seats. The 25 seats allotted to them represent just over 20% of the strength of the entire house whereas they should be given 25%, namely, 29 seats. Moreover, as the Assembly is mainly a deliberative body, the sardars should be given the alternative of sending their representatives to attend the meetings, instead of themselves. This will save a good deal of embarrassment and unpleasantness as there will be a number of cases in which tenants will bring up complaints about their thikanedars.

So far as the Assembly is concerned, I am in favour of introducing functional representation as suggested by the Committee. As the main function of this body will be to discuss and deliberate over public matters, it would be very desirable to have it as widely representative a gathering as possible.

Paragraph 94 (1) of the Committee's Report reads—

"he must be qualified as a voter for the House for which he wishes to stand as a candidate;

"Provided that a sardar, as defined in the Constitution Act, shall not be eligible to stand for election in a territorial constituency."

The reason for this proviso is explained at length in paragraph 93 where it is stated that although zamindars and landholders who have been given a special representation in British Indian Councils are allowed to contest general seats, the sardars here should not be allowed to do so as they may use improper methods to induce the electorate to vote for them.

In the first place, when a section of the body politic is given special representation it is never debarred by that fact from its rights to contest general territorial seats. For instance, in this same Report, the Muslims, Trade and Commerce, Labour, women and graduates are given special seats, but this does not debar them from standing for the general territorial constituencies Why then should the sardars be thus handicapped?

In the second place, if the only reason for this proviso is the fear that the sardars may coerce the electorate by improper means, there will still be cause for apprehension, for if the sardars really are in a position to exercise such coercion, what is to prevent them from using it on behalf of their nominees even though they cannot contest the constituencies themselves? I would suggest that the use of improper means for obtaining votes can only be prevented by the growth of political consciousness in the masses, not by constitutional provisos which handicap a particular class.

With regard to the exclusion of certain subjects from the purview of the legislature, I support the view of the majority of the Committee which recommends that the following subjects should be added to the list of excluded subjects;

(a) the relations of the sardars with His Highness the Maharaja and their personal or hereditary privileges, rights and status, granted or recognised by His Highness the Maharaja.

The Chairman, on the other hand, while agreeing with the desirability of introducing a popular element into the Council fears that statutory restriction of the choice of Ministers to the elected members of the Council might prove embarrassing in practice and hinder the appointment of the best available men.

(b) the State Army.

Paragraph 112 embodies the Committee's recommendation that in order to introduce popular element into the Council, at least one-half of the Ministers (excluding the Prime Minister) may be appointed by His Highness the Maharaja from amongst the elected members of the Council.

I am in complete agreement with the view of the Chairman that no fetters should be placed on the choice of His Highness the Maharaja to appoint his Ministers. His Highness has shown a keen desire to associate his people more and more in the administration and we may feel certain that his Ministers will be chosen to an ever-increasing extent from among the elected representatives of his people.

SARDAR SINGH,
RAJA BAHADUR OF KHETRI.

30-4-43.

Minute of Dissent by Thakur Kushal Singhji of Geejgarh, Mr. Laxmi Narain Yadava, Thakur Surendra Singhji of Khachariawas, Captain Chiman Singh, and Mr. Chiranjilal Loyalka

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1. Fundamental differences of opinion have constrained us to write this separate Report in which we shall briefly indicate our views and proposals regarding Constitutional Reform in this State. In the prefaratory remarks to their Report, our learned colleagues have referred to the existence of diversity in the characteristics of Indian States and to the necessity of relating the constitutional problem to the special features, past history and present requirements of the State. These very considerations have led us to conclusions which differ, in important respects, from those arrived at by the other members of the Committee.

2. Historically the constitution of a Rajputana State like Jaipur is a modified continuation or a product of the ancient Indian polity. A patriarchal type of monarchy, in which the interests of the ruler and the ruled are identified, is the distinguishing feature of this system of government. While the protection of the subjects and the promotion of their welfare is the highest duty imposed on a ruler by Divine dispensation, sovereignty vests in the ruler, not in the people.

3. A constitution based on these principles is still considered by the bulk of the population to be the most desirable form of government. Political theories and constitutions of foreign countries are unknown to the masses. There is no general discontent or unrest in the State. The desire to gain political power by imitating the Western democratic

form of government is a phenomenon restricted to a small section of those who have received modern education. We are not suggesting that our system of administration does not stand in need of improvement or that there should be no reform so long as there is no agitation. Statesmanship requires that steps should be taken to introduce a carefully considered scheme of reforms calculated to revive the true spirit of our own political organisation and to secure the closer association of the people with the administration.

4. In paragraph 3 of our colleagues' Report, there is a reference to the inalienability of land. The correct position is that land in thikana areas as well as that held by landholders of all types is, by custom and usage, inalienable. We do not also consider some portions of the description of sardars and thikanas given in paragraph 6 of that Report to be correct. It was outside the purview of our Committee to determine the status, rights, powers and privileges of sardars and thikanas. The importance of the aristocratic order of sardars is self-evident and history bears ample testimony to it.

THREE SCHEMES

5. We wish to offer some observations regarding the three schemes which have been criticised by our learned colleagues in chapter II of their Report. The Sardar Sabha's scheme does not envisage the establishment of a hereditary house on the lines of the British House of Lords, because it is not suggested that all the sardars should sit in the Upper House which is to include a certain percentage of members belonging to other classes also. It does

not seem to be intended that the representation of sardars should be a marked feature in the Lower House where the representatives of the people would naturally be expected to be in a decided majority. When sardars are to be returned by election to both the Houses, they cannot be called hereditary legislators.

6. It has been mentioned in paragraph 18 that none of the Western countries has copied the hereditary system of the British Parliament for the constitution of an Upper House. On this point Sir Henry Maine says:—

"There is much reason to believe that the British House of Lords would have been exclusively or much more extensively copied in the Constitutions on the Continent but for one remarkable difficulty This is not in the least any dislike or distrust of the hereditary principle, but the extreme numerousness of the nobility in most continental societies, and the consequent difficulty of selecting a portion of them to be exclusivly privileged

The Abbe Sieyes insisted that the fatal obstacle to the engrafting of a House of Lords on to the Constitution 'made' for France in 1791 was the 'number and theoretical equality of the nobles'.

Still the nobility was very substantially represented on the Upper Houses of Italy, Spain, Sweden, Austria, Prussia, Saxony, Bavaria, Wurtemberg, Baden Hesse, and Japan. Even the modern "Canadians desired to follow the British model but as hereditary membership (like that in the English House of Lords) could not be arranged, Senators are appointed for life."

Hungary, where the nobles owned one eighth of the land in the Kingdom, had the House of Magnates which resembled the British House of Lords. In countries where hereditary aristocracy does not exist, the Upper Chamber has necessarily to be composed of different personnel.

7. The question of sovereignty and jurisdiction raised in paragraph 19 of the other Report is, in our opinion, not germane to the issue. According to the Government of India Act of 1935, those for whom 40% seats were reserved in the legislature included not only Ruling Princes but also others known by different names and possessing no sovereignty or jurisdiction at all. For example, a very large number of talukdars of Kathiawar belong to the latter category. In such cases, the Crown Representative legislates and exercises jurisdiction. Many of these units, before their allegiance was transferred to the British Crown, were thikanas subordinate to Ruling Princes. The recent decision of His Excellency the Crown Representative to attach such units to neighbouring States shows how greatly the status of these talukdars differs from that of Ruling Princes enjoying full legislative and jurisdictional powers. The position of these non-jurisdictional units in relation to the British Crown is not better than that of thikanas in relation to their suzerain Rulers. Indian States form part of the British Dominions, though not of British India. Thikanas form part of a State, though they are distinguished from khalsa territory. While the relationship of sardars with the Jaipur Throne is of a special nature, its political aspect cannot be ignored. We have referred to some of the points mentioned by our learned colleagues but we consider it quite unnecessary, for our present purpose, to go further into these controversial questions. It was not because the nobles enjoyed sove-

(1) Sir J. A. R. Marriott: The Mechanism of the Modern State. —Vol. I, page 412.

(2) V. S. Ram and B. M. Sharma: Modern Government.--page 289.

reign powers or exercised jurisdiction that the House of Lords was constituted in England or the Upper Houses, containing a predominance of nobles, were established in the countries mentioned above.

8. The quotations given on pages XXVIII to XXX of the Sardar Sabha's reply to the Questionnaire make it abundantly clear that the possession of sovereignty or jurisdiction was not the criterion for the inclusion of any unit among those for whom 40% seats were reserved. It should be noted that the claim of sardars for adequate representation and safeguards is not based exclusively on the analogy of the Government of India Act, 1935. They themselves say that "no analogy can completely and correctly describe the status of the Rajput sardars which is *sui generis*." They have stated, in reply to the Questionnaire, other grounds also in support of their claim. These grounds may be summarised thus:—

(*i*) Possession of 72% of the total area of the State by sardars and landholders.

(*ii*) Their ties of kinship to the Ruler.

(*iii*) Their martial and historical contribution to the establishment and preservation of the State.

(*iv*) Their position of special and great importance and their political predominance in the State, enjoyed by immemorial custom and tradition.

(*v*) Possession of certain hereditary status, rights, powers and privileges.

(*vi*) Long established usage of their having a dominant voice in the affairs of state.*

(*vii*) Article 8 of the Treaty of 1518.

"The Maharaja and his heirs and successors shall remain absolute rulers of their territory and THEIR DEPENDANTS ACCORDING TO LONG ESTABLISHED USAGE."

9. All these considerations put together afford ample justification for the claim of sardars for adequate and effective representation and necessary safeguards. Their desire for an Upper House, consisting exclusively of the aristocracy or of 70% seats for their order, cannot be considered to be unreasonable. In view, however, of the modern trend of thought and events, we would propose a *via media* which we shall discuss later.

Bicameral Schemes

10. Nine important public bodies have proposed a bicameral constitution. We shall deal with this question later.

Mr. Hiralal Shastri's Scheme.

11. We now come to the scheme of Mr. Hira Lal Shastri "who may be said to represent the nationalist or Prajamandalist section of political opinion in Jaipur." He wants that "Jaipur should enjoy full responsible government as an integral part of free and independent India." Our learned colleagues remark that as things stand at present, the realisation of full responsible government, immediately, is by no means practicable The very first

* "Sardars are the chief counsellors of the Jaipur Chief." History—of Jaipur" by T. Fateh Singh.

instalment of 'political reform in the State.... .can not in reason, be expected to be full-fledged responsible government of the British parliamentary type." If the implication of this be that although the goal of full Responsible Government is not realizable immediately, it might be realised hereafter, we record our dissent from such a view.

12. There is no place for irresponsibility in our conception of Government. The moral and spiritual responsibility of the Ruler is an essential characteristic of the Indian type of monarchy. But the significance of Responsible Government, according to modern political terminology is quite different. The Executive Government, instead of being responsible to the Ruler, is required to become responsible to and removable by the Legislature. This means the extinction of the Ruler's sovereignty and authority which are to be transferred to the legislature and the people. This western idea of Responsible Government, involving the idea of the sovereignty of the people is, thus, diametrically opposed to the basic principles of our own polity

13. Party government is an indispensable feature of the Parliamentary type of Responsible Government. A party, by its very nature, is incapable of being so impartial as a Ruler can be. Recent experience of the working of Provincial Autonomy in British India has shown that the party in power was inclined to develop autocratic and dictatorial tendencies. Of what avail is Democracy if it secures the domination of a single party whose prejudices and partisanship deny the rest of the people that legitimate freedom which is their birthright? The

following observations of Bryce regarding majority rule ar. interesting:—

"Sardars are the chief counsellors of the Jeypore Chief."— 'History of Jaipur" by T. Fateh Singh.

"If, on the other hand, the group constitutes majority in the Chamber, it is omnipotent. The ball is at its feet; it can count on passing all its measures and need not trouble to expound or defend proposals in debate except for the purpose of saving appearances and putting its case before the country. It has only to go on voting steadily what has been previously determined on, in secret, uninstructed and unmoved, by arguments from any other part of the Chamber, because there is no need for listening to words which cannot affect its predetermined action. The Chamber, having ceased to be deliberative, has become a mere voting machine, the passive organ of an unseen despotism. It may have even ceased to express the national will, for the majority of a majority party does not necessarily represent the view of the majority at the whole Chamber. Assume that whole Chamber to consist of 210 members, 110 of whom constitute the ruling group. Suppose the majority of that group who decide upon a particular course to be 60 against 50 dissentients. Add to these fifty the hundred other members of the Chamber who are also opposed to the course proposed. That course will be carried by a compact majority of 110 against 100 although, if the real opinion of the members were expressed by the vote, it would be rejected by 150 against 60. If we were to try to ascertain the probable will of the people on the matter by examining the popular majorities in each constituency by which the 60 members whose vote in caucus prevailed had been elected, as compared with the number of votes cast for the 150 members who disapproved, the contrast between the true popular will and the decision rendered by those who are supposed to represent it in the Assembly might become still more evident. Yet by this method of subjecting the whole Assembly to a bare majority of a majority, the most far-reaching and possibly irrevocable decisions might be taken.

This may seem a sorry result for representative government to have reached, yet it is a logical and legitimate development of the the principle of Majority Party Rule. "(J. BRYCE: *Modern Democracies,*"— Vol. II, pages 338-89).

14. The so-called representatives of the people who are returned by election represent only that party which votes for them. His Highness who is

above parties and factions, is the representative and guardian of all. The security of the majority as well as minorities, of all classes, communities and sections lies in the benevolent protection which the Ruler alone can afford. Responsible Government would deprive the people of this extremely necessary and valuable safeguard.

15. We are convinced that it would not be in the best interests of the State and the people to adopt Responsible Government of the foreign type as our immediate or distant goal. The English constitution is the result of a gradual evolutionary process and has not been imported from outside. In Switzerland and America the ministry is not responsible to or removable by the legislature and yet both these countries are democratic. Constitutional machinery is only a means to an end, the aim of all governments being the happiness and welfare of society. This object can be best attained by our own monarchical system of government which can be so liberalised as to fulfil all the legitimate requirements and aspirations of the people.

THE UNICAMERAL SCHEME.

16. The other members of our Committee, in paragraph 60 of their Report, have recommended "a legislature composed of two Houses, but not of a bicameral Character." What they have actually proposed is a legislature consisting of a single chamber to be called the Legislative Council, and a Representative Assembly "which will not take part in legislation" and will not be connected in any way with the Legislative Council. The main function of the Representative Assembly is to be "the venti-

lation of public grievances". The real work of legislation is to be entrusted to the Legislative Council. In this scheme, inspite of there being two Houses, we have all the disadvantages of unicameral system and none of the advantages of a bicameral legislature. The contemplated single Legislative Chamber would make the constitution definitely unicameral.

17. Democracy is so far unknown in the actual working of the administration of this State. Our esteemed colleagues recognise that at present "there is no constitutional contact between the Government and the people" who have had no opportunities "to acquire political experience and training". They are also aware of the educational and "general backwardness of the people". Still they are proposing a unicameral constitution which is universally recognised as more dangerous than the bicameral system. We cite some eminent men to show what the world thinks of Unicameralism:—

"Nor, perhaps, would the preference for the bicameral form have become so marked but for the exposure, by practical experience of the inconveniences and dangers attendant upon alternative methods. Some of the smaller European States such as Greece, have made trial of the one-chamber system *only to abandon it in favour of two.*"

(Sir J. A. R. Marriott: *The Mechanism of the Modern State.* Vol. I, p. 89).

"Except at moments of revolutionary favour, the principle [of Unicameralism] has never been adopted by any of the great States of the modern world." (*Ibid, p. 392*)

"Mill, Bagehot, Henry Sidgwick, Lecky and Lord Acton, widely as they differed in their general political outlook, all concurred in the conclusion that a single chamber legislature is dangerous to liberty, and does not conduce to efficiency of government." (*Ibid, p. 401*)

With reference to the *British Self-governing Colonies,* Sir J. A. R. Marriott writes: "Nor will it escape observation that notwithstanding

the robustness of their democratic sentiments, not one of them has adopted the unicameral model" (*Ibid, p. 417*)

"I tell you that unless you have some such thing as a balance you cannot be safe By the proceedings of this (single chamber) Parliament, you see they stand in need of a check or balancing power (OLIVER CROMWELL)"

Of all forms of government that are possible among mankind, I do not know any which is likely to be worse than the government of a single omnipotent democratic chamber ... ..The tyranny of majorities is, of all forms of tyranny, that which in the conditions of modern life is most to be feared and against which it should be the chief object of a wise statesman to provide' LECKY "*Democracy and Liberty*". Vol I p. 299 & 322).

18. It is with the object of establishing "full Responsible Government" that the Prajamandal proposes a Unicameral Legislature This objective is calculated to destroy our own polity. The phrase "under the aegis of His Highness the Maharaja" which is coupled with the demand for Responsible Government is meaningless and the demand is self-contradictory, because, as we have already pointed out, the authority of the Ruler is necessarily extinguished in a government of this type The people in general, however, have faith in, and desire the continuance of, our traditional form of monarchy. Since it is, as it ought to be, our intention to seek constitutional progress by adopting such modern methods as would serve to maintain the integrity of the best elements of our indigenous monarchical system, we should not knowingly introduce a political machinery which would tend to destory that we want to preserve. The disruptive tendencies of unrestrained democracy are likely to manifest themselves vigorously in a Unicameral Legislature which would certainly not be conducive to the end we have in view.

In so far as the check and steadying influence of an Upper House would be absent, the Unicameral constitution recommended for this State would be less balanced and more exposed to the dangers of mobocracy than the constitution of British India where at the Centre as well as in all the important Provinces, Bicameralism reduces the risks associated with the introduction of democratic institutions. Even full-fledged democracies need the balance and safety which Second Chambers provide. Unicameralism would seriously aggravate the difficulties and perils with which our constitutional experiment would be confronted. In the Legislative Council proposed by our colleagues, a definite majority is provided for the representatives of the people. In any unicameral scheme this will be so. Even if, to begin with, the number of seats for the aristocracy is increased, that will not remove the [illegible] ity so long as they remain in a minority in th[illegible] Besides, there will be a constant tenden[illegible] ase the number o[illegible] for the aristoc[illegible] ncrease those for [illegible] le when there i[illegible] mber Dominat[illegible] ole party w[illegible] le i this syst[illegible] edy lies in st tution wi[illegible] ny appro[illegible] will be in

19. W[illegible] ep constitutio[illegible] influenced t[illegible] unicameral [illegible] the Seal Comn[illegible] economic stru[illegible] economic level [illegible]

interests, would naturally point to a single chamber". The conditions in the Jaipur State are just the reverse. In the formulation of the scheme which the other members of the Committee have suggested, due weight does not seem to have been attached to our historical background and the existing state of society in Jaipur, The proposed constitution would involve "too sudden a break with past history and tradition" which our esteemed colleagues intended to avoid (*para 27*). It is not possible that the various interests, classes and groups in the State can be satisfactorily balanced in a single legislative chamber. The scheme, as it is, fails to inspire a sense of security in sardars, landholders, other special interests, minorities, Muslims and the orthodox Hindus who constitute the majority. The Unicameral Legislature which we have been discussing is inconsistent with the principles which should govern constitutional reform in a State like Jaipur, is wanting in the necessary checks and balances, and is wholly unsuited to the genius of the people and the circumstances and environment of our State.

20. The Representative Assembly, according to *our colleagues' schemes, would not form part of the* legislature, and its main business would be "to bring to the notice of the Government the wants and difficulties of the peoples by means of presentations and hear the answers of the Government to those representations." The same function is, at present, being performed by the Central Advisory Board and District Advisory Boards which have been unfavourably commented upon by our colleagues. The necessity of such a body as the Representative Assembly is intended to be, would disappear when a

bicameral legislature is established; but if it is considered advisable that there should be an additional agency for the ventilation of peoples' grievences, that purpose could be served by holding annual or periodical conferences of the same nature at the capital and in the districts. The so-called Representative Assembly is also intended to meet once a year.

Our Proposals.

21. We have, at present, a definite social and political organisation based on ideals and traditions which have been highly valued for generations. The measures of reform that we now devise must, therefore, be correlated to these actualities. If, in order to meet modern requirements, we borrow foreign constitutional devices, they should be such as would harmonise with our existing structure and would prove suitable and beneficial for the people in their present backward stage of general and political education. Keeping these principles in view and aiming at the well-being of society as a whole, we would recommend that reform may be sought in the following directions: -

1. The establishment of representative institutions.
2. The increasing association of the people with the administration.
3. Greater responsiveness on the part of the Government.
4. Necessary safeguards.

22. If a legislature is to be established, it should

be, definitely, of the bicameral type. That enlightened opinion in civilised countries prefers Bicameralism would be clear from the following quotations:—

"The modern world has, with a singular measure of unanimity decided in favour of two legislative chambers. Most of the constitutions now in existence are the result, as regards the structure of the legislature, of conscious imitation of the English Parliament, *Sir J A R Marriott* "*The Mechanism of the Modern State* . (Vol I, p 390)

"That the British Colonies should have followed the example of the motherland in adherence to bicameralism is perhaps not altogether unnatural It is more remarkable that the unitary States of Europe should in remodelling their constitutions have shown similar preference (*Ibid*, p 418)

'Lecky and Lord Acton, approaching the study of politics from very different angles, are alike in their solicitude for the maintenance of freedom and both discern in a second chamber one of the strongest securities for its preservation" (*Ibid*, pp. 401—2)

"Lord Acton goes so far as to declare that in every genuine democracy a Second Chamber is 'the essential security for freedom' (*Lord Acton* "*History of Freedom* "—p 98, Ibid 402)

"Henry Sidgwick, fearful as were many men of his generation lest the Legislature should encroach on the functions of the Executive, held that the danger was sensibly diminished by the existence of two legislative chambers "

Sir J A R Marriott *The Mechanism of the Modern State*".—p 402 *Henry Sidgwick* *Elements of Politics* C XXPIII)

Parliaments are bicameral mainly for two reasons:

"As a result of the federal system, and as the institutional result of a desire to check the popular principle in the constitution This does not mean that in Federal States the Second Chamber was designed only to represent the States . . it is likely that there would have been some sort of Second Chamber even if it were not required by the Federal principle, it does not mean, therefore that there is absent from these (Federal

Second Chambers) the intention or spirit of a curb" (*Herman Finer*: "*The Theory and Pratice of Modern Government*".—Vol. I p. 666).

Most of the Senates in modern countries have been deliberately contrived as checks in the popular House, in imitation of ancient Rome or of England." (*J. Bryce*: "*Modern Democracies*" Vol. II, p. 434).

Those modern thinkers and statesmen who have held that every well-framed constitution should contain some check upon the power of the popular assembly have usually found it in the creation of a second assembly." (*Ibid* p. 437)

When the first constitutions of the American States were drafted, a second chamber was deliberately introduced in imitation of the British Parliament with its two houses. The example has been followed in most of the countries that have given themselves framers of more or less popular government in modern times." (*Ibid* p. 438).

"A real and strong second chamber is a *sine qua non* of efficient legislation and government." (*Frederick Harrison.*)

What then is expected from a well-constituted Second Chamber is not a rival infallibility, but an additional security It is hardly too much to say that, in this view, almost any second chamber is better than none." (*Sir Henry Maine*).

23. The reasons which make it advisable and necessary for us to have a second Chamber may be further, stated thus:—

(1) To maintain proper balance between the different interests, classes and sections and to minimise the dangers of the possible despotism and tyranny of the majority party, a second chamber is essential.. "The great majority of the democracies of the world, even those which have come recently into being, have been established on a bicameral basis. Experience in the Australian and American Federations seems to show that their existence has been a security

against abuse of power and* impetuosity on the part of the popular chamber" In the words of Herman Finer, 'Anarchy must be avoided by a balance of power provided in the constitution."† If it were possible to secure balance of power without Second Chambers the world would not have bothered about them.

(2) An Upper House would reduce the occasions for the exercise of the special powers of His Highness and the Prime Minister The Indian Statutory Commission mention, in their Report, that

they do not consider that the Governor s powers of overruling the legislature provide, as is often suggested, an alternative to an Upper House The sphere of the Governor in his individual capacity is mainly executive The exercise by him of powers of overruling the legislature cannot be regarded as equivalent in value to the decision of a legislative and deliberative body '(1) The United Provinces Committee unanimously, favour a second chamber as likely to prevent antagonism arising between the Governor and legislature as a result of frequent resort to the veto (1) It is better that the responsibility for acting as a brake on the lower house should normally be exercised by second chamber than by the Governor—which is the alternative (2) *Viscount Bryce says* — "there is the *method of subjecting* measures passed by the popular representative assembly to revision or rejection by

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* Report of the Indian Franchise Committee — Vol I p 150 (1932)

† *Herman Finer "The Theory and Practice of Modern Government* Vol I p 144

‡ Report of the Indian Statutory Commission— Vol II p 98 (1930)

(1) Report of the Indian Statutory Commission— Vol II p 98 (1930)

(2) Report of the Indian Franchise Committee Vol I p 151 (1933)

is, therefore, necessary that we should proceed with great caution and care and try to produce a model which might be safely and advantageously copied by other sister states.

(5) Bicameralism would be more consistent with our polity and more conducive to the preservation of our indigenous system of monarchy than Unicameralism.

(6) Both territorial and functional representation are desirable and a combination of these can be more satisfactorily and equitably secured in a double-chamber legislature.

(7) As our colleagues have proposed two chambers, the bicameral system would practically involve no additional cost.

(8) The whole problem was fully thrashed out by the British Government in connection with the question of constitutional reform in British India. The Government accepted the view of those who "read constitutional history as showing that the consideration of legislation by one house is inadequate, and that a second chamber has been proved to be the best revisory instrument." (1) Inspite of the Congress demand for Unicameralism, the Government decided upon a bicameral constitution for the centre as well as all the important Indian provinces where aristocracy existed. A few small provinces had to go without second cham-

bers "because the material from which they could be formed does not exist in their provinces." (2) The decision of the British Government in favour of bicameralism is positive proof of its suitability to our conditions.

24. We shall now deal with certain objections against a two-chamber legislature:—

(1) We do not concur in the view expressed by our learned colleagues that an Upper House with a predominance of the nobility "would be a citadel of reactionary forces hindering all popular progress." We consider this to be a false apprehension. Present-day tendencies are being increasingly und[illegible] and appreciated and the need [illegible] g wit[illegible] es is realised t[illegible] ble ex[illegible] e aristocracy. n[illegible] lf-preservat[illegible] lo[illegible] ral leade[illegible] to[illegible] ogressiv[illegible] of[illegible] s we [illegible] in[illegible] only fo[illegible] U[illegible] pro Sab oppo its with [illegible] If the mem[illegible]

nine of these are officials, there will be 26 sardars and landholders and the rest will have 24 seats. If these 24 members combine with the 9 officials they will carry every measure which the landed aristocracy might oppose. Further, we are not proposing that measures rejected by the Second Chamber should be dropped. In case of a difference of opinion between the two chambers, the measure could be referred to the Government fo acceptance or rejection. With these arrangements there can be no fear of the landed aristocracy dominating the Legislature.

(2) *There is nothing cumbersome about the* two chambers we are proposing. The bicameral system is working all over the world as well as in India, without any special difficulty. In the event of disagreement between the two houses one of the three simple devices we are proposing later could be adopted fo arriving at a decision

(3) It was mentioned in the course of one of our discussions that the bicameral constitution was likely to overshadow the authority of the Government. This unusual idea is not, in the least, justified by general experience. The history of

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(1) Report of the Indian Statutory Commission. Vol. II. page 98 (1930).

(2) Report of the Indian Statutory Commission. Vol II page 97 (1930).

second chambers proves, as we have shown above, that they

(*i*) help the Government to maintain equilibrium and stability,

(*ii*) tend to obviate the necessity of governmental interference, thus preventing friction between the Legislature and the Government and

(*iii*) curb the recklesseness of the popular chamber. The value of the Second Chamber is diminished if it consists exclusively or largely of the same class of men as those who form the First Chamber, but when the Upper House is mainly composed of the aristocracy and the propertied classes, it positively strengthens the hands of the Government. Our proposal that measures on which there may be disagreement between the two chambers should be referred to the Government for decision, further enhances the scope for the exercise of the discretion of the Government.

(4) Our learned colleagues really admit the necessity of a second chamber when they say (in para 22):

> "A Double Chamber may be necessary only in cases where a fully democratic Lower House with plenary powers is set up. In such a case an Upper House may be needed to act as a brake on hasty or ill-considered action by the Lower House."

The Legislative Council recommended by our colleagues may not for the present possess what may technically be called

plenary powers, but the proposed powers must be regarded as very considerable and wide for our people who have never before been associated with legislative bodies. With the exception of the subjects that are usually excluded from the purview of a legislature, our legislative chamber would enjoy almost the same powers as are exercised by the legislature in British India. We would go the length of saying that, if the peoples' representatives are to be entrusted with legislative functions, however limited they may be, it would be very necessary, in the interests of safety and order, to adopt the bicameral system.

Our esteemed colleagues add: "As the establishment of such a Lower House in the immediate future is not envisaged by us, the necessity for a Second Chamber disappears". We see no reason why the possession of plenary powers by the legislature should be made a necessary condition for the creation of an upper revisory house. Since it is intended that one chamber should be invested with legislative functions, whatever their precise extent may be, we urge, for reasons which we have already dwelt upon, that the unicameral scheme would be unsatisfactory and should be dropped in favour of a bicameral one.

In paragraph 23 of the Report, the other members of our Committee seem

to express the view that the introduction of Bicameralism should be dependent upon the "immediate establishment of full responsible government". In this connection we would invite attention to the fact that although full responsible government does *not* exist in British India, the bicameral constitution has been adopted by the Government of India as well as by most of the Provincial Governments.

25. The vast majority of the people hold conservative or moderate views. They would prefer a bicameral constitution to a unicameral one when they know the merits and demerits of both. It is a fact that constitutional problems are unknown to the masses. The replies received by our Committee are not an index to the popular feeling, because it is well known that the overwhelming majority of those who appeared as witnesses before the Committee or sent written replies to its Questionnaire belong to one particular school of political thought. The people in general who are loyalists and moderates did not care, for reasons which are probably known to the Government, to send a sufficient number of their representatives as witnesses or written replies. It is, however, significant that as against the Prajamandal and certain similar associations which have asked for a unicameral legislature, the Sardar Sabha—the organisation of the Sardars of the state, the Rajput Sabha, which respresents the important Rajput race, the Rajguru Sant Mahant Samiti, the Arya Samaj,* all the four important associations of the Muslim

(*) The Hindu Sabha did not send a reply to the Questionnaire The Arya Samaj wants three Houses.

community, (2) and the Sanatan Dharma Mandal which speaks on behalf of the bulk of the Hindu population, have all indicated, in their replies to the Questionnaire, their decided preference for a bicameral constitution

Informal discussions among different groups of members of our Committee showed that it might have been possible for our Committee to evolve an almost unanimous scheme of reforms on the basis of the bicameral system if the impression had not been created, rightly or wrongly, in the minds of some that the Government favoured the unicameral model It is still our fervent hope that this impression may turn out to be incorrect and that the weighty and immense advantages of a Double Chamber legislature may induce the Government to decide in its favour We believe Bicameralism will be the most generally acceptable constitution for our State. Even the Indian National Congress has worked the bicameral system in British India.

After careful deliberation we have come to the conclusion that in our socio political structure, a unicameral legislature will not tend to "secure the

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(2) The four Muslim organisations which sent replies are:—

Anjuman i Khadimul Islam Darul Akhbar Kaim Khanese Board and Islami Panchayat The Muslim members of our Committee have expressed the view that the Muslim community favours the bicameral system and the following statement bearing their signatures as well as ours was submitted to our Committee —

"The expression of our views and our participation in voting on all points should be understood to be subject to the reservation that we are going to propose a seperate scheme of a bicameral legislature.

steady and harmonious constitutional progress of the State from the point of view of all interests concerned," which, as laid down by the Government, should be our ultimate aim. Taking a comprehensive view of the whole question we would say, unhesitatingly, that a bicameral constitution would, in every way, be definitely safer and more advisable and suitable for our State.

The Legislature

26 We recommend that the Legislature should consist of a Legislative Council and a Legislative Assembly.

The Legislative Council.

27. If the Legislative Council consists of fifty-nine members in addition to the President, nine seats may be allotted to officials. Out of the remaining fifty seats for non-official members, there should be twenty-six seats for the sardars and landholders and twenty-four for the rest. These twenty-four seats may be distributed among the propertied classes on a geographical basis, and others. Out of these twenty-four seats five may be nominated by the Government.

The idea is that the Second Chamber should consist of a class and type of men different from those who constitute the First Chamber, in order that the various interests may be evenly balanced. The representatives of the people should be in a decided majority in the Lower House and the landed aristocracy should have one or two more seats than the rest of the members in the non-official bloc in the Upper House. What we have proposed would give the sardars and landholders about 43% of the seats in the

Second Chamber. The representation of the landed aristocracy should be proportionate to their importance. Among those classes which could find representation in the Upper Chamber, the sardars and landholders are undoubtedly the most important. In view of the considerations which we have mentioned above in paragraph 8 and of the position of special eminence which the nobility enjoys historically in the State, it would not be unreasonable to give them the representation we are proposing. They are entitled to substantial weightage and that point should also be borne in mind. It would be recalled that they are asking for a reservation of 70% of the total number of seats in the Upper House. If the landed aristocracy is given a representation lesser than what we have proposed above, it would also upset the whole balance. The arrangement that we are proposing seems quite fair and should prevent the domination of any single interest, party or group.

28. The comparison which has been drawn between the talukdars and zamindars of British Indian provinces and the sardars of this State in paragraph 33 of our colleagues' Report cannot be considered to be fair, because the status of the Jaipur sardars is of an entirely different and superior nature, and the political organisation and constitution of the State differs materially from that of a British Indian province.

The Legislative Assembly.

29. In a Legislative Assembly of one hundred and twenty members, excluding the President, there should be twenty-five seats for sardars and landholders, sixty-four for territorial constituencies, six for functional groups, and twenty-five for official and

nominated members. Out of the twenty-five members to be nominated by the Government, not more than half may be officials, the rest being non-officials. Out of the sixty-four territorial seats a certain number should be reserved for Rajputs. Weightage for Rajputs should not be less than what may be decided upon for Muslims. It is noteworthy that seats are reserved for Marathas in the Bombay Provincial Legislative Assembly. It would only be in the fitness of things that reservation of seats for Rajputs must be provided, *for they do not only belong* to the ruling race but also form the sword-arm of the State. The proposed reservation of 20% seats for sardars and landholders in the Legislative Assembly would suffice, provided that liberty is also given to them to stand for election from the general territorial constituencies and that 43% seats are reserved for these classes in the Legislative Council as proposed above.

30. Sardars and landholders should be elected by *separate* electorates composed of their own class. This is the recognised and accepted method.

31. We have reconsidered the question of joint and separate electorates for Muslims in the light of the view which prevailed in our Committee and which favoured joint electorates. We do not wish to oppose the general opinion that joint electorates would be better.

32. A most extraordinary and unfair discrimination against sardars is sought to be made by a proposal embodied in the proviso to clause (1) of paragraph 81 of the Report of our esteemed colleagues. It is suggested that sardars should not be

eligible to stand for election in territorial constituencies If a definite majority in the Legislative Council is provided for the sardars by the constitution, it would be a different matter so far as that Chamber is concerned, but the imposition of this disability would not be justifiable in the case of the Legislative Assembly in which only about 20% seats are proposed to be reserved for these classes. The argument advanced by our learned colleagues is that "if the sardars are allowed to contest territorial seats, there is a danger of their capturing many of them to the detriment of the interests of the general public" We do not think that this is a correct reading of the situation. It is admitted that out of a total population of thirty lakhs, about eighteen lakhs live in thikana areas The happiness and prosperity of these eighteen lakhs of ryots vitally affects the sardars whose interests are closely interwoven with those of these people. The landed aristocracy has far greater reasons to care for the well-being of the rural masses than those professional politicians who are mainly actuated by a desire to be in the lime-light and who have nothing to gain or lose by the fortune or misfortune of those whom they profess to represent. The sardars who have always distinguished themselves by their patriotism, have a stake in the country which gives them a genuine and abiding interest in the welfare of the people and the State These natural leaders of the countryside should be encouraged to represent the cause of the rural population The seeking of the votes of the people by the landed aristocracy would be a process which should promote harmony and a greater realisation of the identity of the interests of these sections of society. In British India, no attempt has ever been made to prevent the

landholders by statutotry provision, from being returned by general constituencies, although in two of the provinces this class succeeded in capturing as many as 97% and 74% seats. It should also be remembered that political propaganda is going to make it increasingly difficult for sardars to be successful at elections in general constituencies. We are emphatically of the opinion that sardars should be allowed to contest the general territorial seats.

It would be advisable to make it permissible for sardars to send their representatives to the Legislative Assembly. This practice exists, at present, in the case of the district advisory boards.

33. If the Government desire to reduce the numerical strength of the Chambers, it might be done proportionately.

34. The Presidents of the Legislative Council and the Legislative Assembly should be appointed by His Highness the Maharaja Sahib Bahadur. Each Chamber may choose one of its members to be the Vice-President of the Chamber concerned.

35. We leave it to the Government to decide the precise extent of the powers to be entrusted to the two Chambers, but we consider it essential that both the Chambers should be invested with co-equal powers. The balance of political strength, which ought to be aimed at, cannot be ensured unless this is done. The Upper and Lower Chambers of the British Indian and Provincial Legislatures enjoy equal powers except in the case of Money Bills, which originate in the Lower House.

(1) Vide Report of the Indian Statutory Commission vol. II p. 77.

Excluded Subjects.

36. While we agree that the subjects mentioned in paragraphs 56 and 57 of the Majority Report should be excluded from the purview of the Legislature, we propose the following amendments:—

(i) in clause (g) of paragraph 57 after the word "rights" the word "powers" be inserted, and after the word "Maharaja" the following be added:— "and the exercise of such privileges, rights and powers by the sardars."

(ii) in order to protect the dignity of sardars, the following be added to the list of excluded subjects:— "sardars".

(iii) there is a genuine fear in the minds of orthodox Hindus in general as well as Muslims, that the heterodox section of the population, though numerically very small, might find itself in a strong position in the Legislature and try to introduce legislation affecting religion and religious usages which would be highly objectionable. This apprehension would, to some extent, be diminished by the establishment of a second chamber, but it cannot be completely removed without a specific provision in the constitution to exclude such matters from the purview of the Legislature. We, therefore, strongly recommend that the following be added to the list of excluded subjects:—

"Ecclesiastical matters and matters affecting religion, religious usages, practices and customs"

37. We agree that the items of expenditure mentioned in paragraph 59 of the Majority Report should be treated as "excluded heads" and suggest the following amendments:—

(i) the wording of clause (e) of paragraph 59 is not comprehensive enough. The clause should be so worded as to include all kinds of compensations and other payments to thikanas and bhomias etc.

(ii) under paragraph 59 the following should be added to the items of expenditure regarded as "excluded heads:—

"Expenditure on Temples and Religious endowments.".

Action in case of disagreement.

38. In case of disagreement between the two chambers on any measure, one of the following three methods may be adopted for arriving at a decision:—

(i) both the chambers may meet in a joint sitting and, after debate, if 75% of the members present vote in favour of the measure it should be deemed to have been passed by the Legislature, otherwise it should be treated as rejected. When the numerical strength of the Lower Chamber is double that of the Upper, it might be taken almost as a foregone conclusion that the opinion of the Lower Chamber would prevail in a joint sitting. In order to remedy this inequality it is necessary that a majority of 75% should be required for the acceptance of a measure: or

(ii) the matter may be referred to a joint committee composed of an equal number of members of each house. Either an effort may be made to arrive at a compromise, failing which the measure be dropped, or the matter may be decided by a majority of votes of the members of the joint committee, or

(iii) the matter may be referred to the Government which may take such action as it deems proper.

The second method is similar to the Swiss and American systems. Of these three devices we consider the last two to be better than the first and the last one to be the best of all, at least for the present.

Disqualifications

39. We agree to the proposals contained in paragraph 79 of the majority Report regarding the disqualifications which should render a person ineligible for membership of the Legislature.

Qualifications of electors and members

40. We are opinion that the qualifications for votes and candidates for membership should be the same in the case of the Legislative C[illegible] except that voters should have attained the age [illegible] years and candidates the age of 25 years.

41. For the Legislative Council a p[illegible] be qualified to be included in the elec[illegible] any territorial constituency if he:—

(i) is a tazimi sardar or the [illegible] or eldest bhanwar of a ta[illegible]

(ii) is a khas chouki sardar or the eldest kanwar or eldest bhanwar of a khas chouki sardar; or

(iii) is a Rajguru or Sant Mahant holding at least one village; or

(iv) is a landholder of any description holding at least one village; or

(v) has an annual income, from any source, of not less than twelve thousand rupees; or

(vi) holds any title, order or decoration conferred by or on behalf, of His Majesty not being lower than Diwan Bahadur, Rao Bahadur, Rai Bahadur, Sardar Bahadur. Khan Bahadur, Mahamahopadhyaya or Shamsul-ulama, or any title, order or decoration conferred by His Highness the Maharaja Sahib Bahadur, not being of a lower rank than that specified by the Government; or

(vii) has been awarded by the Government of Jaipur a civil, military or political pension or by the Government of India a military pension of not less than two hundred and fifty rupees per month; or

(viii) is or has been either:—
a Minister or member of the Executive Council of the State; or

(ix) a Judge of the Chief Court or High Court of the State; or

(x) a Chancellor, Pro-Chancellor, Vice-Chancellor, Pro-Vice-Chancellor, Fellow or Honorary Fellow of, or a member, of the senate or Court of any University consti-

tuted by law in British India or an Indian States; or

(*xi*) a chairman of a municipal board constituted under the Jaipur State Municipalities Act.

The idea underlying the proposal to extend the qualification to the eldest kanwars and eldest bhanwars of sardars is to utilise the educated younger generation of the aristocracy for this purpose. For the same reason we propose that the minimum qualifying age for membership for sardars, their eldest kanwars and eldest bhanwars should be twenty-one years.

42. For the Legislative Assembly we propose a system of election of members through panchayats. Every village with a population of not less than1000 and not more than 2000 should elect five panches and those having a population above 2000 should elect one panch extra for each increase in population of 1000 persons or part thereof. In towns each mohalla should elect a panch. All such panches should be the electors. In Jaipur City and wherever municipalities exist, the electors should be those who are on the electoral rolls of the municipalities.

The panchayat is a well-known indigenous institution. A system of elections through panchayats is likely to prove simpler and more suitable for our conditions than other methods. Under this system the electorate will be of a manageable size and yet the principle of universal adult franchise will be indirectly introduced. We may mention that this system exists, at present, in Jodhpur and Bharatpur states.

43. A person should be qualified to be elected as a member of the Legislative Assembly, from any territorial constituency if he

(*i*) is a tazimi sardar or a kanwar or bhanwar of a tazimi sardar; or

(*ii*) is a khas chouki sardar or a kanwar or a bhanwar of a khas chouki sardar; or

(*iii*) is a chhut bhaiya of a thikana; or

(*iv*) is a Rajguru or Sant Mahant; or

(*v*) is a landholder of any description, holding not than less ten bhighas of chahi or forty bhighas of barani land in the constituency; or

(*vi*) owns or resides in the constituency, in a rural area where there is no municipality, in a house or part of a house, the value of which is not less than Rs. 300/-; or

(*vii*) is a tenant of land in the constituency in respect of which rent or revenue, in cash or kind, of an annual amount to be prescribed by the Government is payable; or

(*viii*) is on the electoral roll of a municipality within the constituency; or

(*ix*) is a retired, pensioned or discharged officer, non-commissioned officer, soldier of the State military forces or of the Indian Army; or

(*x*) possesses the qualifications mentioned in clauses (*vi*), (*vii*), (*viii*), (*ix*), (*x*) and (*xi*) of paragraph 41 above; or

(*xi*) is a graduate of any univesity constituted by law in British India or Indian State, or

has passed such examination in Oriental or Indian languages as may be declared by the Government to be equivalent.

For want of the necessary data we are unable to suggest the amount of rent under clause (iii) of this paragraph and leave it to the Government to specify it.

Voters should have attained the age of 21 years and candidates the age of 25 years.

44. Regarding the term of the Legislative Council and the Legislative Assembly we propose that the practice prevailing, at present, in British India, in this respect, may be adopted

The Executive.

45. We agree that a popular element may be introduced into the Executive Council, but we are opposed to the idea of making any statutory restriction requiring one or any number of ministers to be necessarily elected members of the Legislature. The popular element will be automatically represented in the ministry when the following recommendation [illegible] with which we agree, is accepted:—

> "The Committee is agreed that the [illegible] lar Ministers should be coterminous [illegible] Council The term of other Ministers [illegible] Minister should ordinarily, not exceed [illegible] also recommends that the Ministers [illegible] Jaipurians and that the Prime M[illegible] be a Jaipurian " (Paragraph [illegible] Report).

We endorse the views of the C[illegible] in paragraph 99, but we feel that [illegible] paragraph 100, to "provide by [illegible]

least of the non-official Ministers should not be a Sardar" is inconsistent with the recommendation made in paragraph 102 to the effect that there should be no statutory provision circumscribing the power of His Highness in this respect. If the Chairman's proposal were accepted it would make it possible to have an Executive Council in which there need not be even a single sardar. It is a historical fact that there was a time when the Ministry (Panch Musahabat) consisted exclusively of sardars and that it has always been and is the established practice in this state to have, in the Executive Council, a certain number of sardars whose proportion was often more than 50% of the total number of Ministers. It is necessary and important to maintain this practice either by convention or by statute. In case the Government decide to make any statutory provision with regard to the composition of the Ministry, it should be laid down that half of the number of popular Ministers, if any, whether taken from the legislature or from outside, and half of the total number of Ministers in the Executive Council must be Rajput sardars.

The Judiciary and Public Service Commission.

46. We concur in the proposals of the Committee regarding the Judiciary, the Civil Service and the establishment of a Public Service Commission. Our learned colleagues have recommended the adoption of the principles embodied in Section 220 of the Government of India Act, 1935, but we think that the provisions of clause (3), (c) of the section should be considerably modified to suit local conditions.

It was decided by our committee to recommend the establishment of a Public Service Commission on the lines laid down in sections 264 to 268 of the Government of India Act, 1935; but owing, perhaps, to an oversight the principle indicated by the words underlined in clause (2), (c) of section 265 of the Government of India Act, 1935, which we reproduce below, has not been incorporated, as we think it should have been, in paragraph 107 of the Majority Report:—

> "No other member of the Federal or of any Provincial Commission shall be eligible for any other appointment under the Crown in India *without the approval*, in the case of an appointment in connection with the affairs of a Province, of the Governor of the Province in his discretion and, in the case of any other appointment, of the Governor General in his discretion."

One of the greatest grievances of the people is that local men cannot find employment in State Service which is filled with an unnecessarily large number of outsiders. We recommend that steps should be taken to ensure the appointment of local men on all posts and to give them necessary training for all branches of the State Services. This would afford greater satisfaction to the public than any other measure of reform.

Fundamental Rights.

47. Convention ensures, in our State, the enjoyment of Fundamental Rights by all. A declaration, in this behalf, would not only involve various

difficulties and complexities, but would prove to be practically ineffectual. We do not think that any useful purpose would be served by such a declaration.

48. The principle embodied in section 300 of the Government of India Act, 1935, might be incorporated in our constitution by a suitably worded provision.

49. We are in general agreement with the proposals embodied in the following paragraphs of the Majority Report:— 32, 41, 43, 46 to 50, 55, 72 to 78, 83, 84, 91, 113 to 115, 117 to 119.

The word "unanimously" in the first line of paragraph 65 should be deleted, because the proposal contained in this paragraph was not unanimously adopted.

Conclusion.

50. In conclusion we wish to invite the attention of the Government to certain fundamental considerations. It is generally acknowledged that English system of Parliamentary Government is extremely difficult to work. It pre-supposes certain conditions and cannot succeed in their absence. One of the greatest advantages of our own monarchical system of government is that it does not allow any group to impose its will upon others. The vesting of authority in a large number of people gives rise to rule by a party. There is a constant tendency on the part of the party in power to assume that whatever it does is right and that the opinions of all others can be safely ignored. This is the road that leads to despotism and dictatorship. All those who do not compose the dominant party fail to receive, from such a govern-

ment, that equitable and just treatment to which they are entitled. Herein lies a serious menace to human liberty and safety. The most difficult problem for those who have to reconstruct our constitution is to devise methods by which the increasing association of the people with the Government can be secured without the development of party rule. In the conditions that exist in this State nothing would be more deplorable than party government. That even a democratic country can, to some extent, avoid this evil is demonstrated by the example of Switzerland. What is wanted is a constitution that will prevent governmental authority from being exercised by a single party, will ensure a balance of political power and promote the greatest good of all sections of society.

KUSHAL SINGH.
LAXMI NARAIN YADAV.
SURENDRA SINGH.
CHIMAN SINGH (Captain).
CHIRANJILAL RAMCHANDRA LOYALKA

5-6-43.

Additional Note by Seth Chiranjilal R. Loyalka

Subject to this brief separate note I have signed the separate report along with my esteemed friend Thakur Sahib Kushal Singhji and others.

Our ancient conception of state is different. Bhagwan Manu states as under

स्वाम्यमात्यौ पुरं राष्ट्रं कोश दण्डौ सहृत्तथा ।
सप्तप्रकृतयो ह्येताः सप्ताङ्गं राज्य मुच्यते ॥
(मनुस्मृति अ० श्लो० २९४)

Thus according to *Manu Smriti*, a state comprises the following component parts: (1) King, (2) Ministers, (3) Capital, (4) Territory, (5) Treasury (6) Army, and (7) Allies. In an ideal government all these component parts function in harmony for the good of the state. The constitution of Jaipur as well as all other ancient Hindu states has come into being in pursuance of this ideal. According to ancient Hindu political science, sovereignty of the state is vested with the King. A virtuous and dutiful king is looked upon as father by all the subjects. The king chose his ministers, taking into consideration the qualifications of each and governed the state on the advice of these ministers. All the ministers were responsible to the king for their acts and carried out his directions and will.

The popular form of Government is opposed to ancient Hindu political theory. The strength and weakness of the popular form of Government lies in party system. Where parties are formed on well considered principles such as in Great Britain, such

form of Government has achieved a measure of success, but even in Europe in many countries this has led to multiplicity of parties with the result that there is frequent change of Government. Government too is weak and cannot do much good to the people. In a country like India where this form of Government is still in an experimental stage it would lead to party bickerings and lower the efficiency and moral standard of the state.

Any attempt to curtail the powers and rights of the king through popular form of Government would be harmful to the best interests of the state. The imitation of the present system of Government in vogue in British India, in Indian states will be disastrous. In British India the real power is still in the hands of the Governor-General and Governors who are appointed by Ministers of the British Parliament and are responsible to it. In many times the interests of India and Great Britain are not the same; therefore the cry and agitation for Self-Government in British India is natural. In a state like Jaipur the interests of the Ruler and the ruled are the same, and under these circumstances an enlightened and virtuous Ruler, assisted by able and upright ministers can do a great deal for the state. I, therefore, see no cause for framing any new constitution for Jaipur State on the lines in British India.

However, as the state seems to be in favour of introducing some Reforms, I have signed the Report.

CHIRANJILAL RAMCHANDRA LOYALKA.
